

§ 1639.30

§ 1639.30 Non-waiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under this subpart must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provisions of a written contract or law, unless there are statutory or contractual provisions to the contrary.

Subpart C—Tax Refund Offset

§ 1639.40 Applicability and scope.

(a) The regulations in this subpart implement 31 U.S.C. 3720A which authorizes the Department of the Treasury to reduce a tax refund by the amount of a past-due legally enforceable debt owed to a Federal agency.

(b) For purposes of this section, a past-due legally enforceable debt referable to the Department of the Treasury is a debt that is owed to the Board; and:

- (1) Is at least \$25.00 dollars;
- (2) Except in the case of a judgment debt, has been delinquent for at least three months and will not have been delinquent more than 10 years at the time the offset is made;
- (3) Cannot be currently collected under the salary offset provisions of 5 U.S.C. 5514;
- (4) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Board against amounts payable to the debtor by the Board;
- (5) With respect to which the Board has given the debtor at least 60 days to present evidence that all or part of the debt is not past due or legally enforceable, has considered evidence presented by the debtor, and has determined that an amount of the debt is past due and legally enforceable;
- (6) Which has been disclosed by the Board to a credit reporting agency as authorized by 31 U.S.C. 3711(e), unless the credit reporting agency would be prohibited from reporting information concerning the debt by reason of 15 U.S.C. 1681c;

5 CFR Ch. VI (1–1–06 Edition)

(7) With respect to which the Board has notified or has made a reasonable attempt to notify the debtor that:

- (i) The debt is past due, and
 - (ii) Unless repaid within 60 days thereafter, the debt will be referred to the Department of the Treasury for offset against any overpayment of tax; and
- (8) All other requirements of 31 U.S.C. 3720A and the Department of Treasury regulations relating to the eligibility of a debt for tax return offset have been satisfied.

§ 1639.41 Procedures for tax refund offset.

(a) The Board will be the point of contact with the Department of the Treasury for administrative matters regarding the offset program.

(b) The Board will ensure that the procedures prescribed by the Department of the Treasury are followed in developing information about past-due debts and submitting the debts to the IRS.

(c) The Board will submit a notification of a taxpayer's liability for past-due legally enforceable debt to the Department of the Treasury which will contain:

- (1) The name and taxpayer identifying number (as defined in section 6109 of the Internal Revenue Code, 26 U.S.C. 6109) of the person who is responsible for the debt;
- (2) The dollar amount of the past-due and legally enforceable debt;
- (3) The date on which the original debt became past due;
- (4) A statement certifying that, with respect to each debt reported, all of the requirements of eligibility of the debt for referral for the refund offset have been satisfied. See § 1639.40(b).

(d) The Board shall promptly notify the Department of the Treasury to correct Board data submitted when it:

- (1) Determines that an error has been made with respect to a debt that has been referred;
- (2) Receives or credits a payment on the debt; or
- (3) Receives notice that the person owing the debt has filed for bankruptcy under Title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.